



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,131	08/08/2003	Abedan Kanthasamy	ELS-28-07-02	3841

7590 04/18/2006
Kenneth C. Brooks
Law Office of Kenneth C. Brooks
P.O. BOX 10417
Austin, TX 78766

EXAMINER

SAFAVI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/637,131	Applicant(s) KANTHASAMY, ABEDAN	
	Examiner M. Safavi	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-49 is/are pending in the application.
- 4a) Of the above claim(s) 42-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's election without traverse of the invention of Group I, claims 31-41, in the reply filed on February 12, 2006 is acknowledged.

Claims 42-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 12, 2006.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: The following are only examples of reference characters not presented within the specification; 66, 78, 80, 82a, 82b. Applicants will need to examine the drawings and specification to assure appropriate correspondence between reference characters shown and recited. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 32, 33, 36, 37, and 39-41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification had not originally presented "a substantially L-shaped mortise plate section", (claims 32 and 39). Nor has the specification originally presented a detent section having a semi-circular shape, (claims 33, 36, 37, 40, and 41). The specification had not originally presented an "L-shaped mortise plate section connected to two of the planks at one of the junctions", (claim 32).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3673

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 31-41 are rejected under 35 U.S.C. 102(b) as being anticipated by

Nielsen '935. Nielsen '935 discloses, Figs. 1-3 and 7, a futon moveable between a bed position and a seating position, the futon comprising: a first platform 36/38/40 including four planks interconnected at junctions forming a perimeter defining a substantially rectangular enclosed area; a second platform 42/44 including four billets interconnected at unions to form a boundary defining a substantially rectangular enclosed area, the first and the second platforms pivotally connected to one another; a frame 46/48/50 adapted to support the first and second platforms; and a first and a second load bearing detent apparatus 10/12 each comprising a mortise plate section, 10 and a detent section 12 extending away from the mortise plate section, the first mortise plate section connected at one of the junctions proximate to the boundary and the second mortise plate section connected at another one of the junctions proximate to the boundary, **(claims 31 and 38)**. The mortise plate sections are a L-shaped, (as by 10/16), with each of the detent sections being semi-circular shaped, (profile along outer edge of 12), **(claims 33, 36, 37, and 39-41)**. The load bearing detent apparatus includes a substantially L-shaped mortise plate section connected to two of the planks at one of the junctions, (see Figs. 7, for example which shows 10 and 16 attached to

planks 44 and 42), and a detent section 12 extending away from the mortise plate section, (**claim 32**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-41 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bebry et al. '683.

Bebry '683 discloses, Figs. 1, 2 and 5, a futon moveable between a bed position and a seating position, the futon comprising: a first platform 'A' including four planks interconnected at junctions forming a perimeter defining a substantially rectangular enclosed area; a second platform 'B' including four billets interconnected at unions to form a boundary defining a substantially rectangular enclosed area, the first and the second platforms pivotally connected to one another; a frame 'C' adapted to support the first and second platforms; and a first and a second load bearing detent apparatus 5 or 6 each comprising a mortise plate section, (that section which is connected to the frame members of the platforms--see Figs. 2-4, for example), and a detent section (that section along an end opposite the mortise plate section—i.e., near where 7 extends), extending away from the mortise plate section, the first mortise plate section connected at one of the junctions proximate to the boundary and the second mortise plate section

Art Unit: 3673

connected at another one of the junctions proximate to the boundary, (**claims 31 and 38**). The mortise plate sections are a L-shaped, (see extension of the plate to encompass two frame members of each platform as can be seen in Figs. 2-4), with each of the detent sections being semi-circular shaped, (profile along outer edge), (**claims 33, 36, 37, and 39-41**). The load bearing detent apparatus includes a substantially L-shaped mortise plate section connected to two of the planks at one of the junctions, (see Figs. 2-4, for example), and a detent section extending away from the mortise plate section, (**claim 32**). Bebry et al. does not appear to specifically disclose the platforms as made of 4 planks or four billets though, Bebry et al. does state that the platforms 'A' and 'B' can be made in any desired manner, col. 2, lines 4-5. Bebry et al. is taken to disclose platforms formed of four frame members each. However, to have formed the Bebry et al. platforms of four frame members each, thus providing a well known type of frame section, would have been obvious to one having ordinary skill in the art at the time the invention was made particularly, since it has been well established that it is not invention to merely make one piece construction into an integral structure formed of separate pieces, *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
April 10, 2006